

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 15 June 2005 Division: Engineering
Bulk Item: Yes X No Department: Engineering
Staff Contact: David S. Koppel, PE
County Engineer

AGENDA ITEM WORDING:

Approval of a Joint Participation Agreement (JPA) between Monroe County and the Florida Department of Transportation to complete stormwater management improvements at various locations along the U.S. Highway 1 corridor, subject to review and approval by the County Attorney and FDOT.

ITEM BACKGROUND:

Two years ago the Directors of Marine Resources and Engineering met with representatives of the Florida Department of Transportation to discuss placing various stormwater improvements located on FDOT right-of-way and identified in the County's Stormwater Management Master Plan in the FDOT Work Program. They agreed to pursue funding for these improvements. Recently County staff was informed that the funding had been made available and would be provided to Monroe County to complete the improvements through a JPA. Attached is a JPA to complete 6 projects for an estimated cost of approximately \$2,000,000. No County funds are required.

PREVIOUS RELEVANT BOCC ACTION: None

CONTRACT/AGREEMENT CHANGES: NA

STAFF RECOMMENDATIONS: Approval as stated above.

TOTAL COST: \$2,000,000 BUDGETED: Yes No X

COST TO COUNTY: None SOURCE OF FUNDS: FDOT

REVENUE PRODUCING: Yes No X AMOUNT Per Month Year

APPROVED BY: County Atty  OMB/Purchasing  Risk Management 

DIVISION DIRECTOR APPROVAL: 
David Koppel, PE, County Engineer

DOCUMENTATION: Included X Not Required

DISPOSITION: AGENDA ITEM NO.:

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: FDOT Contract # _____

Effective Date: 06/15/05

Expiration Date: 12/31/2006

Contract Purpose/Description:
Joint Participation Agreement (JPA) between Monroe County and the Florida Department of Transportation to complete stormwater management improvements at various locations along the U.S. Highway 1 corridor.

Contract Manager: David S. Koppel, PE 4426 Engineering / 1
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 6/15/05 Agenda Deadline: 5/31/05

CONTRACT COSTS

Total Dollar Value of Contract: \$ 2,000,000 Current Year Portion: \$ 1,000,000

Budgeted? Yes ☒ No ☐ Account Codes: N/A- _____

Grant: \$ 2,000,000 _____

County Match: \$ None _____

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ NA/yr For: NA
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>5/31/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5-31-05</u>
Risk Management	<u>5/31/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5-31-05</u>
O.M.B./Purchasing	_____	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5-31-05</u>
County Attorney	<u>5/31/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>5/31/05</u>

Comments: _____

JOINT PARTICIPATION AGREEMENT

THIS JOINT PARTICIPATION AGREEMENT (this "Agreement") is made and entered into on this _____ day of _____, 2005, between MONROE COUNTY, a political subdivision of the State of Florida, existing under the Laws of the State of Florida, herein after called the COUNTY, and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION a component agency of the State of Florida, hereinafter called the DEPARTMENT.

WITNESSETH

WHEREAS, the COUNTY expects to undertake the permitting, design, and construction of several stormwater structures on areas of U.S. Highway 1 in the COUNTY over several years, and

WHEREAS, the DEPARTMENT desires to improve stormwater drainage along the U.S. Highway 1 corridor in MONROE COUNTY which are within DEPARTMENT rights-of-way as identified in Attachment A, and

WHEREAS, the DEPARTMENT and the COUNTY desire to pool resources in order to gain efficiencies and economies of scale, and

WHEREAS, the DEPARTMENT agrees to participate in the costs of work performed on the State Roadways, and

WHEREAS, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party;

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and benefits set forth and other good and valuable consideration, receipt of which is hereby acknowledged, hereby agree as follows:

1. Representations by the Department. The DEPARTMENT makes the following representations as the basis for the undertakings on its part herein contained:

- (a) The DEPARTMENT has been duly created and is validly existing as a public agency under the laws of the State. The DEPARTMENT has all necessary power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The obligations of the DEPARTMENT under this Agreement are valid and enforceable in accordance with their terms, except to the extent that such enforceability may be subject to bankruptcy, insolvency, moratorium, and other laws affecting creditors' rights generally and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
- (b) There is no litigation pending or, to the knowledge of the DEPARTMENT, threatened with respect to the future development of the ramps which are a part of this Agreement which will affect the performance by the DEPARTMENT of its obligations under this Agreement.
- (c) No default exists with respect to the obligations of the DEPARTMENT under this Agreement, and the execution and delivery of this Agreement by the DEPARTMENT do not constitute a violation of applicable law or regulations or a breach of a default under any other agreement to which the DEPARTMENT is a party or an event that, with the passage of time, would become a breach of or default under any such agreement.
- (d) All consents, waivers, approvals and other governmental actions required to be taken in order for the DEPARTMENT to enter into and fully comply with this Agreement have been received and obtained by the DEPARTMENT.

2. Representations by the County. The COUNTY makes the following representations as the basis for the undertakings on its part herein contained:

- (a) The COUNTY has been duly created and is validly existing as a body politic and corporate, a public instrumentality and an agency of the State existing under the Act. The COUNTY has all necessary power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper corporate action the COUNTY has been duly authorized to execute and deliver this Agreement. The obligations of the COUNTY under this Agreement are valid and enforceable in accordance with their terms, except to the extent that such enforceability may be subject to bankruptcy, insolvency, moratorium, and other laws affecting creditors' rights generally and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
- (b) No litigation is pending, or to the knowledge of the COUNTY, threatened with respect to the future development of the ramps which are a part of this Agreement which will affect the performance by the COUNTY of its obligations under this Agreement.
- (c) No default exists with respect to the obligations of the COUNTY under this Agreement, and the execution and delivery by the COUNTY of this Agreement do not constitute a violation of applicable law or regulations or a breach of or default under any other agreement to which the COUNTY is a party or an event that, with the passage of time, would become a breach of or default under any such agreement.

- (d) All consents, waivers, approvals and other governmental actions required to be taken in order for the COUNTY to enter into and fully comply with this Agreement have been received or obtained by the COUNTY.

3. **Recitals.** The Recitals to this Agreement are true and correct and are hereby incorporated herein by reference and made a part hereof.

4. **Funding of Permitting, Design and Construction Work.**

- (a) The DEPARTMENT covenants and agrees to provide funding for stormwater management improvements along various segments of the U.S. Highway 1 corridor of the Florida Keys.
- (b) The COUNTY covenants and agrees to undertake the Permitting, Design and Construction Work of the following road segments on the DEPARTMENT rights-of-way as established and described in Attachment 1 and as set out in the Monroe County Stormwater Management Master Plan dated August 2001.
 - 1. Bayside Parking MM 66,
 - 2. Boca Chica to Rockland,
 - 3. Rockland to Shark Key,
 - 4. Big Coppitt Boat Ramp,
 - 5. North Harris to Park Key Channels, and
 - 6. Bow to Kemp Channels;
- (c) The Permitting, Design, and Construction Work shall be performed in a manner that conforms to the requirements of the work programs and design standards of the DEPARTMENT and the COUNTY as in effect on the date of this Agreement.

5. Funding of Construction.

- (a) The COUNTY covenants and agrees to undertake the construction of the Stormwater Improvement Structures which are a part of this Agreement as part of an overall, multi-year plan to improve various stormwater management in Monroe County on and DEPARTMENT rights-of-way.
- (b) The DEPARTMENT covenants and agrees to reimburse the COUNTY for the design, permitting, and construction costs of various stormwater improvements on the DEPARTMENT rights-of-way as follows:
 - 1. The total cost of construction for the Bayside Parking at MM 66 estimated to be \$16,900;
 - 2. The total cost of construction of the Boca Chica to Rockland Key right-of-way which is estimated to be \$1,128,700;
 - 3. The total cost of construction of the Rockland to Shark Key right-of-way which is estimated to be \$543,500;
 - 4. The total cost of construction of the North Harris to Park Channels which is estimated to be \$418,000;
 - 5. The total cost of construction of the Bow to Kemp Channel right-of-way which is estimated to be \$1,045,100.
- (c) The DEPARTMENT has encumbered the funds for Fiscal Year 05 in accordance with this agreement.
- (d) The DEPARTMENT will reimburse the COUNTY for its share of the work when invoiced by the COUNTY in accordance with the Standard Financial Provisions of this agreement.

- (e) The COUNTY covenants and agrees to schedule the construction of the stormwater management improvements on the DEPARTMENT rights-of-way in accordance with the availability of funds set forth on Attachment A. Upon completion of the work, the COUNTY will certify to the DEPARTMENT that all work was performed in accordance with applicable DEPARTMENT standards.

6. Standard Financial Provisions.

1. The Department agrees to pay the COUNTY for the herein described services at a compensation as detailed in this Agreement.
2. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the State Comptroller under Section 215.422(14), Florida Statutes, or by the Department's Comptroller under Section 334.044(29), Florida Statutes.
3. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
4. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
5. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Travel Form No. 300-000-01 and will be paid in accordance with Section 112.061, Florida Statutes.
6. Participants providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has (5) five working days to inspect and approve the goods and services. The

Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

7. If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Participant. Interest penalties of less than one (1) dollar will not be enforced unless the Participant requests payment. Invoices that have to be returned to a Participant because of Participant preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
8. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.
9. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred includes the

Participant's general accounting records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

10. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and a term for a period of more than one year, the provisions of Section 339.135(6) (a), Florida Statutes, are hereby incorporated.

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."

11. The Department's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

7. **Effective Date of this Agreement.** This Agreement shall become effective on the date first specified above.

8. **Provisions Separable.** The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

9. **Amendment of Agreement.** This agreement may be amended by mutual agreement of the DEPARTMENT and the COUNTY expressed in writing and executed and delivered by each.

10. **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered (personally, by courier service such as Federal Express, or by other messenger) against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

- (a) If to the County: Monroe County
1100 Simonton Street, Room 2-205
Key West, Florida 33040
Attention: County Administrator
- (b) If to the Department: Florida Department of Transportation
1000 NW 111th Avenue, Room 6231
Miami, Florida 33172
Attention: District Secretary

[BALANCE OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement,
MONROE COUNTY, signing by and through its Chairman, and the STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION, signing by and through its District Secretary, each
duly authorized to execute same.


MONROE COUNTY

BY: _____

[SEAL]

ATTEST:

Approved as to form


Suzanne A. Hutton
Asst. Co. Atty.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
District Secretary

[SEAL]

ATTEST:

Margaret Higgins
Executive Secretary

Approved as to form and legal
Sufficiency

D. Michael Schloss
General Counsel

STATE OF FLORIDA)
) SS:
COUNTY OF MONROE)

I, _____, a Notary Public in and for the said County in the State
aforesaid, do hereby certify that _____ and _____
personally known to me to be the same persons whose names are, as Chairman and Secretary,
respectively, of the COUNTY, subscribed to the foregoing instrument, appeared before me this
day in person and severally acknowledged that they, being thereunto duly authorized, signed,
sealed with the seal of said Authority, and delivered the said instrument as the free and voluntary
act of said Authority and as their own free and voluntary act, for the uses and purposes therein as
set forth.

Given under my hand and notarial seal this ____ day _____, 2005.

NOTARY PUBLIC
State of Florida

Notary Public
Seal of Office

Personally known to me, or
Produced Identification:

Did take an oath
Did not take an oath
My Commission Expires:

STATE OF FLORIDA)
) SS:
COUNTY OF MONROE)

I, _____, a Notary Public in and for the said County in the State
aforesaid, do hereby certify that _____, District VI Secretary of the STATE OF
FLORIDA DEPARTMENT OF TRANSPORTATION, subscribed to the foregoing instrument,
appeared before me this day in person and severally acknowledged that they, being thereunto
duly authorized, signed, sealed with the seal of said Department, and delivered the said
instrument as the free and voluntary act of said Department and as their own free and voluntary
act, for the uses and purposes therein as set forth.

Given under my hand and notarial seal this ____ day _____, 2005.

NOTARY PUBLIC
State of Florida

Notary Public
Seal of Office

Personally known to me, or
Produced Identification:

Did take an oath
Did not take an oath
My Commission Expires:

ATTACHMENT A

State U.S. Highway 1 Right-of-Way

To be Improved Under this Agreement

Mile Marker	Island	Name/Location	Estimated Construction Cost	Expected Funds Available
7-10	Boca Chica	Boca Chica to Rockland	\$1,128,700	FY 05
11-12	Big Coppitt	Rockland to Shark Key	\$543,500	FY 05
17-19	Park Key	North Harris to Park Channel	\$418,000	FY 05
20-22	Cudjoe Key	Bow to Kemp Channel	\$1,045,100	FY 05
66	Long Key	Little Duck Key Public Park & Ramp	\$16,900	FY 05